

**CALIFORNIA STATE BOARD OF
BARBERING AND COSMETOLOGY**

MINUTES OF JULY 11, 2011

**Department of Consumer Affairs
2005 Evergreen Street
1st Floor Hearing Room, Room 1150
Sacramento, CA 95815**

BOARD MEMBERS PRESENT

Deedee Crossett, President
Christie Truc Tran, Vice President
Richard Hedges
Frank Lloyd
Wen Ling Cheng

STAFF MEMBERS PRESENT

Kristy Underwood, Executive Officer
Gary Duke, Staff Counsel
Hilda Youngblood, Assistant Executive Officer
Theresa Rister, Board Analyst
Linda Sakauye, Board Analyst

1. Agenda Item #1, Call to Order/Roll Call

Ms. Crossett called the meeting to order at 10:00 a.m. The board members introduced themselves.

2. Agenda Item, #2, Public Comment

Note: The Board may not discuss or take action on any matter raised during this public comment section, except to decide whether to place the matter on the agenda of a future meeting. [Government Code Sections 11125, 11125 (a)]

Susie Castaneda of San Jose Community College discussed her concerns about the teacher training program and testing. Not everyone can be a teacher and testing is needed. She asked that discussions continue to ensure good teachers.

Josie Glen of Skyline College discussed the quest to get the extern program into the public schools. She believed a senator would have to present a bill. Skyline College began a pilot program and had 12 salons that participated in the program. (Ms. Crossett asked Ms. Glen to bring up her concerns under agenda item 12 when it was discussed.) Ms. Glen thanked the Board for being very supportive.

Danielle Wachowski with DermCoach Aesthetic Consultants, who provided training for licensed estheticians, discussed the need for estheticians to undergo post-secondary education every year prior to renewing their license. She asked the Board to support this.

3. Agenda Item #3, Board President's Report

Ms. Crossett participated in the director's call recently with the Department of Consumer Affairs. She thanked Ms. Underwood for her assistance.

The Board has been offered a complimentary booth at the Bath and Body show in San Jose in August. Volunteers would be appreciated.

Mr. Hedges reported he will begin offering short training courses to salons in his area to avoid violations and citations. He will not be paid. He felt this would be a valuable public outreach tool.

4. Agenda Item #4, Executive Officer Report

Ms. Underwood reported on the exam given at a correctional facility on June 21, 2011. Six of seven individuals passed the exam.

The contract was recently signed for the national practical exam. It was currently being implemented with notices going out to all the schools. It is expected to be fully implemented by September 1, 2011. Ms. Crossett asked about the possibility of an online conference call for questions. Ms. Underwood stated the new exam will be open book and is anticipated to be available to schools on the website by July 15, 2011. Ms. Underwood stated a conference call would not be feasible but a webinar would be. Possibly a hotline. It was agreed a webinar would save time by not having to answer the same questions repeatedly.

- **Review of Board Statistics**

Ms. Underwood provided a brief summary of the board statistics. She noted June was very busy but was not included in the current statistics. Everyone worked overtime to process the year-end applications. Mr. Lloyd asked for a comparison of the last five years. Ms. Underwood noted they were down two positions in the Licensing Division and there was a hiring freeze so there would be a delay. The average wait time for a test date is now 8-12 weeks. Ms. Crossett was concerned that students must start paying their student loan within six months of graduation and this may be stressful to have to wait long for a test date. Ms. Crossett also noted the low passage rate for non English speaking students. Ms. Underwood reported staff have worked with the National group to ensure proper translation of materials. Mr. Hedges noted the barber exam had an 83% pass rate for Spanish speaking students. He wondered if the problem was with the comprehension or translation. Ms. Crossett asked if it would be possible to identify schools that had problems but Ms. Underwood stated it would be difficult and take time. The staff was also limited in school enforcement.

Public Comment:

Fred Jones of PBFC has studied the NIC exam closely. It covers the applicable skills that everyone needs to know. The test will be rigorous and timed so the students will have to know their skills to complete it on time. Safety is strongly emphasized. The instructions for the exam will be on the Board website. Ms. Crossett believed it will be more difficult than projected. Most curriculums will have to be adjusted.

Susie Castaneda of San Jose Community College believed that the Spanish speaking students may not read Spanish fluently and would do better on the English test.

5. **Agenda Item #5, DCA Director's Report**

6. **Agenda Item #6, Appointment of Committee Members**

Ms. Underwood noted only one newly appointed member has joined the Board, Ms. Wen Ling Cheng. Ms. Chen has requested to join the Disciplinary Review Committee.

Ms. Crossett made the motion that Ms. Chen become a member of the Disciplinary Review Committee. Mr. Hedges seconded the motion and it was approved by a 5-0 vote.

Public Comment:

Fred Jones of PBFC asked if a new Board member could be appointed to a committee prior to the next meeting. This cannot be done due to policies stating they must be appointed at a public meeting to ensure board transparency.

7. **Agenda Item #7, Approval of Board Meeting Minutes**

- **April 25, 2011**
- **April 26, 2011**

Mr. Hedges made the motion to approve the minutes of April 25 and 26, 2011. Mr. Lloyd seconded the motion and it was approved by a 5-0 vote.

8. **Agenda Item #8, Legislation Update**

Ms. Underwood reviewed the following legislative updates. None of them impacted the board and were included for informational purposes.

- **AB 300 – Safe Body Art Act:** Registration is required with the local health department but no training is required. An aesthetician's license may not be displayed on the wall while doing permanent make-up. Ms. Hedges encouraged all Board members to reach out to the author to ask to be included in the oversight in salons. It would protect the consumers and assist the enforcement officers.
- **AB 797 – Cosmetology Schools:** Would pull cosmetology schools out of the BPPE. This bill is not moving.

Public Comment:

Fred Jones of PBFC noted he has read this act very closely and the cosmetology schools are not exempted. Ms. Crossett disagreed.

- **SB 498 – Transfer of BPPE to the CA Postsecondary Education Commission:** Nothing further to report.
- **SB 541 – Subject Matter Experts:** Allows boards to enter into agreements as opposed to an actual contract for experts.
- **SB 706 – Posting of Accusations:** Requires certain information to be disclosed on the internet re: licensees. This is already done by the Board.
- **SB 746 – Tanning Salons:** Board has minimal oversight; only if in a licensed salon.

9. Agenda Item #9, Regulations Update and Approval

The following regulations have been submitted previously to the Board. They have been brought back for final approval prior to submission to the Office of Administrative Law to ensure clarity and proper language.

- **Administrative Fine Schedule: Approval of the Second Modified Text for Section 974 of Division 9 of Title 16 of the California Code of Regulations that was noticed to the public on June 9, 2011; Consideration of any comments received during the public comment period ending June 24, 2011 and Approval of the Final Statement of Reasons.** This was initially rejected by OAL due to clarity issues in the numbering of the sections. The double strikeout has been eliminated and sections were renumbered. Nothing has been changed that the Board agreed upon. Upon approval, it will be sent directly back to OAL for a 30 working day review. A 15 day notice has been done for public comment. No comment has been received. Mr. Hedges made the motion to approve the identified changes to the Administrative Fine Schedule. Mr. Lloyd seconded the motion. It would go into effect in 30 days if approved by OAL. The motion was approved by a 5-0 vote.
- **Disciplinary Guidelines: Approval of Final Statement of Reasons and Specific Language for Section 972 of Division 9 of Title 16 of the California Code of Regulation.** There have been no changes since last approved by the Board. Mr. Hedges made the motion to approve the Disciplinary Guidelines and it was seconded by Mr. Lloyd. The motion was approved by a 5-0 vote.
- **Scoring Methods in Examinations: Consideration of Comment and Approval of Final Statement of Reasons and Specific Language for Section 932 of Division 9 of Title 16 of the California Code of Regulations.** A comment was received to be reviewed by the Board.

Public Comment:

Fred Jones of PBFC wondered if the proposed reduced statement provided enough information and direction. Also the language implied there were two separate exams and not two parts of one exam. (He recommended it read practical examination and written test.) He believed the term criterion referenced based scoring was unclear to many. He believed the new regulation was ambiguous and should be reviewed further. He hoped aggregate scoring would be again discussed in the future. The PBFC did not support the 80/20 aggregate scoring on the barber exam. The barber exam was the only licensed category that had this scoring. In summary, Mr. Jones believed the proposed language was unclear and recommended reconsideration.

Mr. Hedges made the motion to approve the final statement as proposed. It was seconded by Mr. Lloyd and approved by a 5-0 vote.

Curriculum: Consideration of Comment and Approval of Final Statement of Reasons and Specific Language for Sections 950.1, 950.4, 950.5, 962.3, 962.4, 962.5 and 962.6 of Division 9 of Title 16 of the California Code of Regulations. No changes or comments received since first approved by the Board. Mr. Hedges made the motion to approve the final statement as proposed. It was seconded by Mr. Lloyd and approved by a 5-0 vote.

Unregulated Practices: Consideration of Comments and Approval of Final Statement of Reasons and Specific Language to Adopt Section 966 of Division 9 of Title 16 of the California Code of Regulations. Two comments were received during the public comment period and were presented to the board. Mr. Hedges believed it was confusing to

the consumer and no license should be displayed if an unregulated activity is taking place. He believed a second room should be used which Ms. Crossett believed was unrealistic. Mr. Hedges agreed with the language that the license should be posted conspicuously at the station. A comment from the Director believed the regulatory agency should be designated.

Public Comment

Fred Jones believed it was a misnomer to post that certain activities were unregulated. Some activities such as permanent makeup were regulated by the County and not the Board. He recommended the title be changed to "State Regulated Services" rather than "Unregulated Services". He recommended the addition of "...but may be regulated by local government agencies including the County health department". He hoped to limit the amount of displays.

The Board agreed with Mr. Jones' comments to protect the consumer. Mr. Duke noted the modifications as recommended would require a 15 day notice. Mr. Hedges recommended the title should be "Unregulated Services by the Board of Barbering and Cosmetology." He also recommended the addition of "...but may be regulated by local government agencies including the county health departments or another state agency". After discussion, it was agreed the title should be "The Board of Barbering and Cosmetology does not regulate the following services". They also agreed to the addition of the last sentence. The acting director recommended the regulating agency be listed and this was agreed to. This item will be brought back to the board after the 15 day comment period.

Mr. Hedges made the motion to approve the final statement as amended. It was seconded by Ms. Tran and approved by a 5-0 vote.

- **Dishonored Check Fee: Approval of Final Statement of Reasons and Specific Language for Section 999 of Division 9 of Title 16 of the California Code of Regulations.** To be changed in accordance with the Department of Consumer Affairs. Ms. Underwood did not believe the amount of dishonored checks has increased but more are received than any other department.

Mr. Lloyd made the motion to approve the final statement. It was seconded by Ms. Crossett and approved by a 5-0 vote.

The meeting was reconvened after a fifteen minute break.

10. Agenda Item #10, Manicuring Technical Advisory Committee

- **Review and Approval of Board Industry Bulletins**
The industry bulletins would be posted on the website under a new link. They would include information, reminders and board action. Mr. Lloyd questioned porous material (did not include metal). He asked about skin tags and mole removal. A separate bulletin will be prepared but was already included on the website as a procedure that should not be done.

Mr. Lloyd made the motion to approve the proposed bulletins (Disinfecting nail files, detox foot spas, callous remover, and reminder that needles are prohibited). It was seconded by Ms. Cheng and approved by a 5-0 vote.

- **Samples of Foot Spa Liners to be Displayed to the Board**

Two foot spas with liners were displayed for the board. The board reviewed the liners. The disinfecting requirements would not change using the liners.

A representative from Footsie Bath noted his liner was recyclable and made from recycled plastic. The foot spa could be disinfected using an EPA approved spray that is left on for 5 minutes then wiped down. Any splashed water could be wiped up with the spray. The enforcement officers can see the used liners and compare them with the log. He noted there will be a sticker on each liner that would be put in the log when used. He offered assistance to research new legislation.

Ms. Crossett noted new legislation would have to be written to require the liners. She acknowledged this was low on her priority list as it was already closely regulated. Mr. Hedges agreed with Ms. Crossett to keep things simple but was interested in doing more research on the liners. Ms. Underwood clarified the liners would be a regulatory change under 980.3. According to regulations, they would still have to be disinfected for 10 minutes after every client. Mr. Lloyd noted at DRC they have found some operators believing they can use a liner and not have to disinfect anymore.

11. Agenda Item #11, Discussion and Proposal to Allow Written Exam at 1200 Hours

This would allow students to keep on track and be able to pass the written exam and then focus on the practical portion of the exam to be taken later. Some students get discouraged if they do not pass the written exam and it is hard to get them to continue. It is believed if they had more time and assistance to pass the exam they would not get discouraged to continue their program. It would also give students a chance to start working sooner and the ability to make money to pay off their student loans. Mr. Hedges wondered if a pilot program would be feasible to assess the pass/failure rate. Ms. Underwood noted it would take a statutory change to implement. Staff was concerned that every application would have to be processed twice (for the written and practical exam), which was difficult with the current antiquated system. Ms. Crossett asked why a student could not be processed at the testing site to take the written exam. Ms. Underwood explained the testing site only administers the exam and did not determine eligibility. A contract currently exists with a computer-based vendor and they will not review applicants. Ms. Crossett wondered if a student could take the written exam, then provide all their documentation when they apply to take the practical exam. Ms. Underwood believed this would violate exam security. There are 16 testing sites in the state. Ms. Crossett hoped students could get pre-approved prior to the written exam. Ms. Underwood stated this could not happen with the current database. It is expected to be updated in late 2012.

Mr. Hedges asked if the new system will be able to match fines with licenses. This is already done manually but the new system will make it an easier automatic process. Ms. Crossett wondered if it would be prudent to start reviewing the system and the changes needed, including proposed legislation. Ms. Underwood agreed. It will have a significant fiscal impact. Mr. Hedges believed the earliest to start would be December 2011. Ms. Crossett noted the current system had a fiscal impact as well with students not getting to work quickly, and not paying back loans.

The current task will be to find someone to sponsor the legislation change. Mr. Hedges recommended this issue be referred to the Education and Outreach Committee to prepare language. Ms. Underwood stated staff will work on the language at the direction of the board. Ms. Crossett noted she was the only member of the committee but agreed to work with staff.

Public Comment

Fred Jones noted the PBFC has supported this idea since 2000. It would be very difficult to implement. He noted it would take a lot of legislative work and the Board needed to set their priorities. He hoped the board would focus on getting out from under the BPPE oversight. This would allow the board more flexibility.

Susie Castaneda of San Jose City College wondered if this would be mandatory. She was concerned that some of the subject matter would not be covered by the 1200 hours.

Curriculum may need to be altered. It should be an option. She believed the board should work on reducing the amount of time it took to get scheduled to take a test.

12. Agenda Item #12, Discussion and Proposal to Expand the Extern Program to Public Schools

Proposed legislative language was presented to the board. It includes removing the language that states a school “that’s approved by the BPPE” which no longer exists. A potential author has been found.

Mr. Hedges made the motion to approve the proposal to expand the extern program to Public Schools as defined by staff. Ms. Crossett seconded the motion.

Public Comment

Josie Glen of Skyline College believed this was a great opportunity to include the public schools. She asked about the requirement of four licensees in a salon. She also asked if the college could set up the students’ schedules. Ms. Underwood noted it may take a year to approve. Ms. Glen thanked the board for their support of this program. Mr. Hedges recommended Ms. Glen speak to Richard Oliver on the Community College Board. Ms. Crossett recommended they continue with fieldtrips and shadowing to encourage students.

The motion was approved by a 5-0 vote.

13. Agenda Item #13, Public Comment

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[Government Code Sections 11125, 11125 (a)]*

The public present did not wish to comment.

14. Agenda Item #14, Agenda Items for Next Meeting

There were no new items to add. Ms. Underwood recommended removing this item from future agendas. She encouraged members of the board to contact her with any item they wish to add. Ms. Crossett decided to leave this item on the agenda.

Mr. Lloyd requested future discussion on unlicensed activity. Ms. Crossett also requested discussion and clarification on the apprenticeship program.

Public Comment

Pam Lockrem stated every site needed a curriculum and proper teachers, not just owners who had space and wanted to make more money. She was working to raise the standards of programs. She believed they needed to be better monitored in delivering the curriculum.

Mr. Hedges stated the apprenticeship program has changed through the years. At the time it was approved by the board, only one apprentice was allowed per shop. However this was not included in the final legislation. Ms. Crossett noted this topic will be added to a future agenda.

Ms. Crossett wondered if other states had problems when transitioning their tests to other languages. The pass/fail rate did not appear to be shifting. She also wondered if the top 10 violations with the DRC had changed.

15. Agenda Item #15, Closed Session to Discuss Enforcement Cases

- **Discussion on Reconsideration and Disciplinary Cases (Closed Pursuant to Government Code Section 11126(c) (3). Mr. Duke noted possible litigation will also be discussed per 11126(e).**

16. Agenda Item #16, ADJOURNMENT

With no further business, the meeting was adjourned.